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## BOARD OF COUNTY COMMISSIONERS

YELLOWSTONE COUNTY, MONTANA

Friday, September 28, 2012

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SUBJECT: Zone Change #638 – 425 Johnson Lane  
THROUGH: Candi Beaudry, AICP, Planning Director  
FROM: Nicole Cromwell, AICP, Zoning Coordinator, Planner II

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### REQUEST

The applicant is requesting a zone change from Residential 9,600 (R-96) to Residential 5,000 (R-50) on a 2.1451-acre parcel of land described as Tract 1-A of C/S 1168 generally located at 425 Johnson Lane. The owners are Michael and Melinda Oedekoven. The Zoning Commission held a public hearing on September 10, 2012, and is forwarding a recommendation of approval on a 4-0 vote.

### APPLICATION DATA

OWNER: Michael and Melinda Oedekoven  
AGENT: None  
LEGAL DESCRIPTION: Tract 1-A, C/S 1168  
ADDRESS: 425 Johnson Lane  
SIZE OF PARCEL: 2.1451 acres  
EXISTING LAND USE: Duplex  
PROPOSED LAND USE: Same with possible future development of single and two-family dwellings  
EXISTING ZONING: R-96  
PROPOSED ZONING: R-50

### APPLICABLE ZONING HISTORY

#### Subject Property

None

#### Surrounding Properties

**Zone Change #98 – Saddle Lane** – A zone change from R-96 to R-70 was approved on July 6, 1976.

**Zone Change #149 – 1207 Palomino and 1204 – 1216 Quinella Drive** – A zone change from R-96 to R-60 was approved on August 3, 1979.

**Zone Change #243 – 3207 – 3317 Old Hardin Road** – A zone change from R-96 to R-60 was approved on October 25, 1977.

### CONCURRENT APPLICATIONS

None

## **SURROUNDING LAND USE & ZONING**

NORTH: Zoning: R-96  
Land Use: Lockwood Fire Department – storage building and future station site  
SOUTH: Zoning: R-96  
Land Use: Single family residence  
EAST: Zoning: R-96  
Land Use: Pasture (Oedekoven land)  
WEST: Zoning: R-150 and RMH  
Land Use: Emerald View Manufactured Home Park and single family residence

## **REASONS**

The subject property is located on the east side of Johnson Lane about  $\frac{3}{4}$  of a mile south of the Johnson Lane/I-90 interchange. The property to the north is owned by the Lockwood Fire Department and will be developed as the new fire station. West across Johnson Lane is the Emerald View Manufactured Home Park, a fully developed residential neighborhood. There are single family homes on the surrounding properties with larger lots. The Lockwood Sewer project Phase I did install public sewer lines in Johnson Lane although this property did not participate in the district cost assessments at the time. The owner will need to pay an equivalent construction impact fee to the Lockwood Water and Sewer District when the property is developed. A detailed letter of comment was received from the district and is included as Attachment D. The applicant is requesting to rezone the 2.1451 acre parcel from R-96, a single family zoning district, to R-50, a single family and two-family zoning district. Duplex dwellings are allowed in the R-50 zoning district on lots of at least 8,000 square feet. The existing duplex dwelling is a legal non-conforming structure and use of land in the R-96 zoning district. Any new development would have to be served by public water and public sewer provided by the Lockwood Water and Sewer District.

Properties further north on Johnson Lane are zoned for commercial uses and several have been developed to provide community services and services to traffic on Interstate 90. The owner has used this property for a single family residence with a rental apartment in the basement. The Department of Revenue lists the residence as a single family residence since the basement apartment is below finished grade and cannot be considered a dwelling unit for appraisal purposes. The structure was built in 1946. The Lockwood community will be experiencing increased population growth due to the new availability of public sewer services. The 2006 Lockwood Community Plan predicted a potential population of the area of just over 22,000. The population was estimated in 2006 of just over 7,200 in the Lockwood area.

A neighborhood meeting was conducted by the applicant on July 30, 2012, at 425 Johnson Lane. The minutes of meeting are included as Attachment B. The applicant shows in the meeting minutes that issues of concern are the location of any new entrance roads, the type, style and number of dwelling units. The applicants indicated to the meeting attendees the proposed homes would be single family, single story style dwellings of about 1,100 to 1,200 square feet. The Planning Division did not receive any telephone or written comments concerning the application.

Planning staff reviewed the application and forwarded a recommendation of approval to the County Zoning Commission for the proposed zone change based on the 11 criteria for zone changes. The property is adjacent to an arterial street and has access to public utilities. The R-96 zoning only allows single family dwellings and the proposed zoning allows single family or two

family dwellings. The proposed zoning helps conserve the value of the existing two-family dwelling since it is current a legal nonconforming use that could not be re-built if it were damaged or destroyed by more than 50% of its replacement value. Single family dwellings and two-family dwellings are compatible uses with the adjacent zoning and land uses. New access roads and street improvements to Johnson Lane will be required at the time of any new development.

The Zoning Commission concurred with the staff recommendation based on the testimony received and the 11 criteria for zone changes.

## **RECOMMENDATION**

The Zoning Commission voted 4-0 to recommend approval of Zone Change #638.

## **ZONING COMMISSION PUBLIC HEARING AND DISCUSSION**

The Zoning Commission conducted a public hearing on this application on September 10, 2012. The applicants, Michael and Melinda Oedekoven, were in attendance to testify in favor of the proposed zone change.

Tiffany Oedekoven, daughter of Melinda and Michael Oedekoven, stated the plan is to move forward with single family townhomes on the property. She stated the reason for the zone change is to allow more density on the parcel. She stated if the zone change is not approved, her parents still plan to develop townhomes it will just be fewer residences. Melinda Oedekoven stated they intend to use the current location of the drive approach to access the property which is to the north of the lot. Mrs. Oedekoven stated the remaining 7.5 acres to the east will remain undeveloped and zoned R-96. Michael Oedekoven stated he would like the access road to be a U-shaped so the development will have two accesses to Johnson Lane. Mr. Oedekoven stated the development will likely occur in several phases to help defray the cost of installing the street and utilities. Mr. Oedekoven stated the proposed 17 units is the maximum that would be allowed under the proposed zoning.

Ivan Andrick of 535 Kallen Drive spoke in favor of the application. He stated he was owner and developer of the Emerald View mobile home park. He stated he wanted some assurance Mr. Oedekoven would develop his half of Johnson Lane in the same manner – with curb, gutter and a parking lane. He stated he wanted the development to protect the local property values so it should have a paved street and amenities similar to the manufactured home park.

Jim Rock of 432 Johnson Lane spoke as a neutral property owner. He stated his concern about where the new entry drive would be located. He stated if it remained in its current location, the impact on his home would be minimal. He was concerned the adjacent lot to the east would be developed and all the traffic would come out to Johnson Lane. Mr. Oedekoven assured the Zoning Commission the 7.5 acres to the east is not contemplated for development at this time and this parcel has a separate access on Enfield Street. Mr. Rock also stated his concern with the proposed density and its potential to affect local wildlife populations.

Chair Dennis Cook closed the public hearing. Al Littler made a motion to recommend approval of the zone change and it was seconded by Joan Hurdle. Al Littler stated some of the concerns at the public hearing can be addressed through the development process and County Public Works

review. Mr. Littler urged those with concerns to contact Tim Miller prior to the Board of County Commissioners hearing on September 28<sup>th</sup>. The motion carried with a 4-0 vote.

## RECOMMENDATION

The Zoning Commission recommends approval of Zone Change #638 on a 4-0 vote.

## PROPOSED COUNTY COMMISSION DETERMINATIONS

The Board of County Commissioners, prior to any recommendation, shall consider the following:

1. Is the new zoning designed in accordance with the Yellowstone County and City of Billings 2008 Growth Policy?

The proposed zoning complies with the following goals of the Yellowstone County and City of Billings 2008 Growth Policy and area plans:

- Goal: Predictable land use decision that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans. (Land Use Element, page 6).

*This zone change would allow for additional area for single family and two-family dwellings adjacent to existing uses that are similar to the surrounding development in the area.*

- Goal: New developments that is sensitive to and compatible with the character of adjacent development. (Land Use Element Goal, page 6).

*This property is adjacent to residential manufactured homes and to the proposed new Lockwood Fire Station. There are substantial vacant parcels in the area that can now support greater density with public sewer services.*

2. Is the new zoning designed to secure from fire and other danger?

- The subject property is currently served by the Lockwood Fire Department and the Yellowstone County Sherriff. The nearest fire station is located on Driftwood Lane approximately 1 mile north and east of the subject property. Development of the property for additional dwelling units will be reviewed by County agencies including Lockwood Fire Department.

3. Will the new zoning facilitate the provision of transportation, water, sewerage, schools, parks and other public requirements?

*Transportation:* The new zoning could increase traffic on Johnson Lane, an arterial street. The increase may be addressed through traffic analysis during the subdivision review process based on the traffic generation from the development.

*Water and Sewerage:* The property will be served by the Lockwood Water and Sewer District. The property will be required to pay an impact fee for the sewer extension since it did not participate in the original district costs.

*Schools and Parks:* If in the future this property is subdivided, the area schools will be notified and will have input as to the impacts on the schools. It would be anticipated there might be an impact on the school system depending on the number and type of dwellings constructed. The development would not necessarily increase demand for parks. There are several neighborhood and

community parks in Lockwood and there is access to several regional parks in the immediate area.

*Fire and Police:* The subject property is serviced by the Lockwood Fire Department and the Yellowstone County Sheriff's Department. Fire protection will be evaluated at the time of development.

4. *Will the new zoning promote health and general welfare?*

The new zoning will allow development of property that is near an existing neighborhood across Johnson Lane. There are single family neighborhoods to the east but many properties along Johnson Lane are large lots with one or two homes. Property improvements will require upgrades to infrastructure that will promote health and general welfare in this area of Lockwood.

5. *Will the new zoning provide adequate light and air?*

The proposed zoning would require minimum setbacks, maximum building heights and maximum lot coverage. These requirements should allow adequate light and air to reach the subject property and adjacent properties.

6. *Will the new zoning effect motorized and non-motorized transportation?*

The proposed zoning itself will not generate more traffic on Johnson Lane. If the property is developed for dwellings it could generate between 170 and 200 additional vehicle trips per day to Johnson Lane. Johnson Lane is an arterial street and carries about 2,450 vehicle trips per day at this location. This average daily traffic is well below the capacity of an arterial street. This amount of additional traffic should not trigger a Traffic Impact Analysis but street improvements may be required.

There is some sidewalk installed on Johnson Lane across from the subject property at the Emerald View Manufactured Home Park. Sidewalk has not been installed along Johnson Lane in any other areas except for closer to the Old Hardin Road and Johnson Lane intersection. The Lockwood Transportation Plan identified the need for pedestrian facilities in many areas of Lockwood for access and safety reasons. It is expected that sidewalks will be installed at some time in the future along Johnson Lane in the area of the subject property.

7. *Will the new zoning be compatible with urban growth in the vicinity?*

The proposed zoning is compatible with adjacent urban development including the Emerald View Manufactured Home Park and the commercial development to the north.

8. *Does the new zoning consider the character of the district and the suitability of the property for particular uses?*

The subject property is in an area that has existing single family development and is in character with those uses. The property is suitable for single family or tow-family uses given its location in proximity to Johnson Lane and services.

9. *Will the new zoning conserve the value of buildings?*

The new zoning allows single family and two-family dwellings. The existing two-family dwelling is currently considered a legal nonconforming use and cannot be re-built as a

two-family dwelling. The new zoning allows two-family dwellings so the value of this home will be conserved by the new zoning.

10. *Will the new zoning encourage the most appropriate use of land in Yellowstone County?*

The property is suitable for residential development. The property is adjacent to public services and along an arterial street. The 2006 Lockwood Community Plan anticipated additional lots and population with the installation of public sewer services.

11. *Will the new zoning be as compatible as possible with adjacent zoning in the City of Billings?*

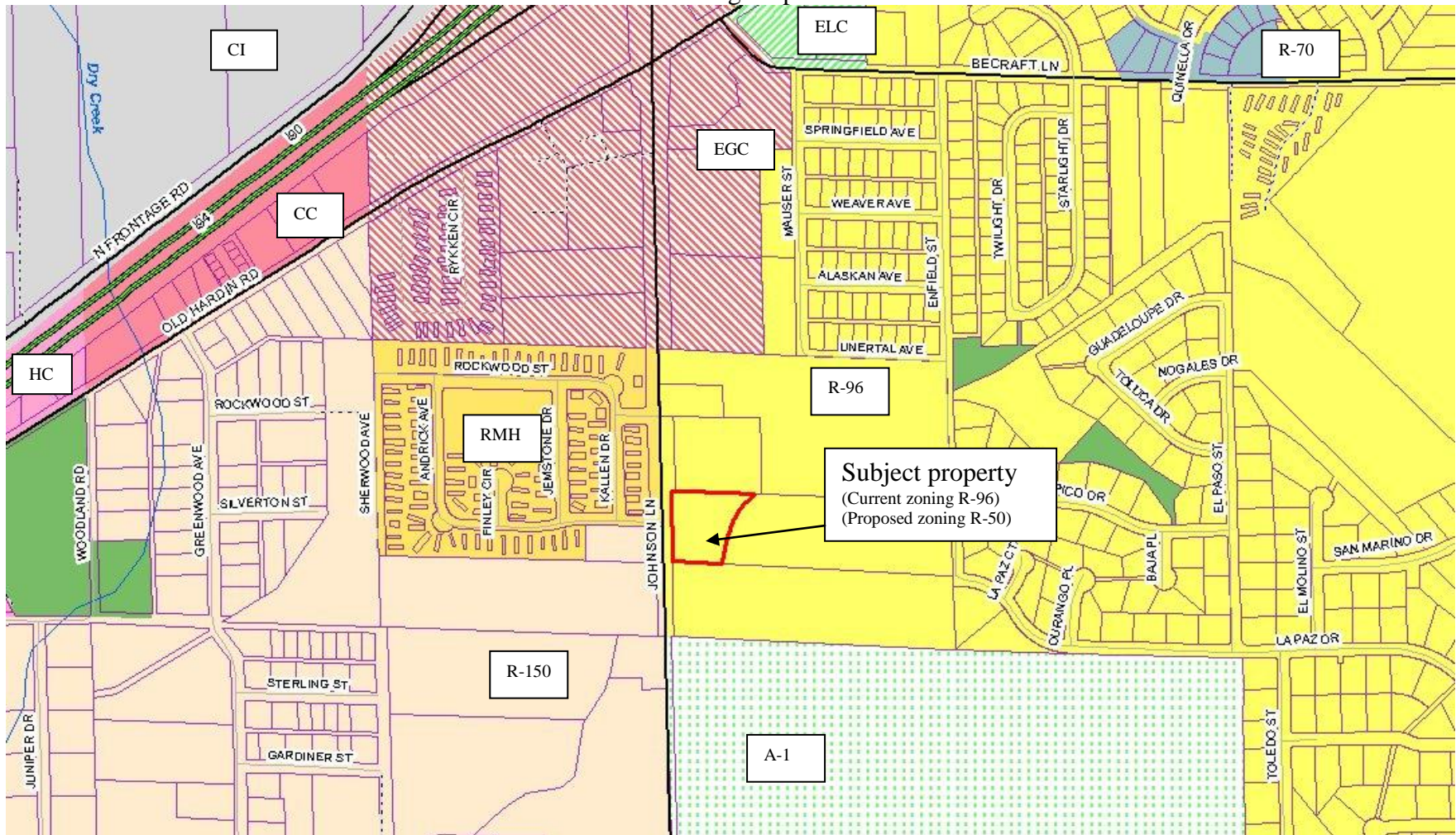
The proposed zoning is not adjacent to the City of Billings.

## **ATTACHMENTS**

- Attachment A: Zoning Map
- Attachment B: Applicant Letter & Pre-application neighborhood meeting minutes
- Attachment C: Site Photographs
- Attachment D: Lockwood Water and Sewer District letter



Attachment A - Zone Change #638  
Zoning Map



**Attachment B - Zone Change #638**  
**Applicant Letter & Pre-application neighborhood meeting minutes**

**(1A) In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?**

Tract 1-A located in the S.W. ¼ N.E. 1/1 of Section 30, T.1.N., R. 27 E., P.M.M. Yellowstone County, Montana; or for these purposes 425 Johnson Ln. is currently zoned R-9,600. The proposed zone change is R-5,000. If the zone change were to be denied the development plans will not differ much. Instead of having eight larger, single family town homes in the R-9,600 zoning (not including the existing duplex) there may be up to 17 smaller, single family town homes in the R-5,000 zoning (not including the existing duplex). Both options will be built as town homes with an established Home Owner's Association (HOA), which will ensure the proper maintenance and upkeep of the properties.

Changing the zoning to R-5,000 will not differ from the surrounding zoning much. The tracts on the east side of Johnson Ln. are mostly R-9600 with areas further south being zoned commercial. Across the street from 425 Johnson Ln. or the west side of Johnson Ln. is zoned R-Manufactured Home and R-15,000. To the back of 425 Johnson Ln. or east of the tract are zoned R-9,000 with some public land areas.

The 2008 Growth Policy's has several goals that would be met by changing the zoning of 425 Johnson Ln. to R-5,000. The first issue is addressed in the paragraph above; to predict land uses that are consistent with neighborhood character and preserve neighborhood integrity. The land to the west of Johnson Ln., zoned R-Manufactured Home has over 100 mobile homes that are kept up and lawns that are well maintained. The land zoned R-15,000 has homes on them. The land east of 425 Johnson Ln., zoned R-9,600 has been subdivided and developed into a beautiful subdivision with several rules to keep it as such. Currently 425 Johnson Ln. has the existing duplex and raw land that is not being irrigated or managed. By developing the land and establishing homes this would create a new neighborhood all on its own and simply add to the existing neighborhoods across the street. Development of the land will also create visually appealing communities, with new homes and well-manicured lawns. Along with well-manicured lawns comes the fact that the ground will consist of green, moist grass and not dry, dead weeds; minimizing a portion of loss of life and property damage from wildfires. By having green lawns, it reduces the risk of fireworks, cigarette and lightning strike fires.

With 425 Johnson Ln. being developed into town homes, it creates a strong sense of community. Owners will be involved in monthly HOA meetings, getting a chance to know each other better and coming to care more for their neighbors and their well-being. Along with the meetings, there may also be a community building that that owners can use for different occasions. Having a shared community area also allows neighbors to become more interactive with one another. Also by having a shared community area and utilities, including: yard maintenance, snow removal, garbage pickup and water usage, it enables and encourages the joint-use facilities and collation of needs for cost effectiveness. This sense of community along with maintained houses and yards will also lead to a sense of pride for one's own neighborhood. Being zoned R-5,000 with smaller homes will let potential home buyers with lower incomes purchase a house, that they may otherwise not be able to, this also creates a sense of pride. When an individual begins to have pride in themselves and others they watch out for the well-being of themselves as well as others. Knowing one another, allows neighbors to recognize when



someone does not belong or a suspicious activity is occurring. Authorities can be alerted or problems eliminated entirely by the close knit community. By changing the zoning from R-9,600 to R-5,000 it allows for more homes and unmistakably more home owners to become part of this prideful community. By having more home owners and increasing the population, by over double, it empowers the community to grow. With community growth also comes: business growth, improved job choices and government investment. Businesses only want to and will open in areas they know will receive revenue. Having a denser area population will increase said revenue. When businesses begin to move into the area it will in turn increase job opportunities, causing businesses to offer competitive wages and benefits. When populations increase so does the area's tax revenue. With the government incurring more compensation from taxes they are able to put more back into the community. When more money goes into the community it allows for funding to go to the schools, transportation, streets and landscaping. The schools are able to hire more teachers, lowering the student to teacher ratio, allowing a better education with more specialized help for individuals. It also allows for current text books and possibly sheriff patrol to ensure the safety of students. With more funding to the transportation there can be more bus stops and more stop times, ensuring citizen's dependable modes of transportation, eliminating part of traffic and vehicle emissions. If citizens choose not to use public modes of transportation, they can be assured that funding will also go into city streets, fixing pot holes and so forth, reducing the risk of damage to vehicles. With reduced damage to vehicles, citizens will have more savings to use in other avenues.

The goal at 425 Johnson Ln. is to maintain as natural a system as possible. The goal is to eventually have a community park that owners can enjoy. By having this natural area, free of homes, wildlife will also be allowed to visit, causing no problems. There currently is deer that routinely make their way around the area, visiting many other subdivisions. There are several trees that provide large amounts of shade and they will not be removed, keeping the natural integrity of the land. Another goal is to bury electrical lines to aid in the unobstructed views of the hillsides to the southeast of the property.

By rezoning 425 Johnson Ln. and allowing more homes to be built and the population to increase will aid the Lockwood area in its continued growth. With the integrity of the current owners and maintaining the natural beauty and integrity of the land, wildlife should not be impacted.

**(1B) Explain your need for the intended zone change and why the property cannot be used under the existing zoning. Explain how the new zoning will fit in with the existing zoning and land uses of the immediate area.**

Changing the zoning of 425 Johnson Ln. from R-9,600 to R-5,000 will allow for the quantity of homes being built to increase. In truth by allowing for more homes to be built, not only will the property owners of 425 Johnson Ln. profit, so would Lockwood. The more people that move into the area will increase tax money.. This would allow the county to build better roads, increase school funding, etc. The property can be used as it is and if the zone change is rejected then townhomes will still be built, the homes will just be larger. However, we are trying to profit everyone, including building more and smaller

homes and more of them, allowing the opportunity for more people to become homeowners, including those with lower incomes.

	Printed Name	Address	Signature
	Beaton, James	501 Kallen Dr.	
Co-Owner			
	Carter, Wesley	505 Kallen Dr.	
Co-Owner			
	Davis, Chris	513 Kallen Dr.	
Co-Owner	Davis, Bertha		
	Forney, Porter	PO Box 351 Hardin, MT 59034	
Co-Owner	Forney, Allison		
	Lee, Maeona	4200 62nd Ave. SW Great Falls, MT 59404	
Co-Owner			
	Lockwood Fire Dist. #8	3329 Driftwood Ln.	
	Planning Services	4th Fl. Library	
	Rock, James	532 Johnson Ln.	Jim Rock
Co-Owner			
	Specht, Rolland	2733 Silverton St.	
Co-Owner	Specht, Irene		
	Stewart, John	403 Johnson Ln.	
Co-Owner	Arthur "Bill" John's brother Don, Jan & Elle		Arthur W. Stewart
	Tri-Pac Investors Inc.	535 Kallen Dr.	
Co-Owner	J.D. Aldrick Toni Leachon		J.D. Aldrick Toni Leachon
	Vlahos, Christos	829 Granite Ests	
Co-Owner			
	Whitefox, Bobbi	517 Kallen Dr.	
Co Owner			

### **Pre-Application Neighborhood Meeting 7-30-12**

The meeting began around 6:30 pm. Those in attendance were Melinda Oedekoven, Tiffany Oedekoven, Wesley Carter (with two family friends), James Rock, Arthur "Bill" Stewart (co-owner with his siblings – John, Don, Jan and Elle of 403 Johnson Ln.) and two people representing Tri-Pac Investors Inc. – Toni Lawhon, the office manager of the mobile home park and I. D. "Ivan" Andrick (the spelling of his last name is in question), the owner of the mobile home park.

The meeting was friendly and productive. Most in attendance wanted to simply meet their neighbors as most of them were familiar already with zone changes and/or subdividing.

Jim Rock voiced his concern about having little voice in the development of the land south of his place. He said, at that time, the subdividing affected his irrigation, but did not elaborate. Jim had a question about where the roads will come into the development at. Melinda said that depending on the layout map, that they could change, but most likely where they are now is where they will stay. He mentioned how the entrance to the developing tract to the south of him and our entrance are almost across the street from each other.

Jim and Wesley asked how many units would be going in. Melinda said at least 8 and as many as 17, depending on what the County allows. They asked if they would be duplexes, single or double story, how many square feet each unit will have, how many bathrooms each unit will have and where they will be positioned on the property. Tiffany and Melinda answered that they would be single family homes, not duplexes, all on one story and the square footage will be mandated by the county, but we were approximating around 1,100 to 1,200 square feet.

Wesley just mentioned how he would appreciate if the development be kept neat and tidy.

Ivan went into detail about requirements of him when he subdivided 30 years ago, such as how he had to widen Johnson Lane in front of his park and provide curb and gutter. He was helpful with information about his Homeowner's Association Agreement and what it entailed in Greystone where he lives. He said he pays \$175.00/month for his fees. He said he is responsible for three feet around his house and the Association takes care of yard maintenance, snow removal, insurance on the structure and water. He said there was one water meter for the entire complex, which was a question of Melinda's. Melinda assured everyone that an attorney would be hired to draw up the Homeowner's Association Agreement.

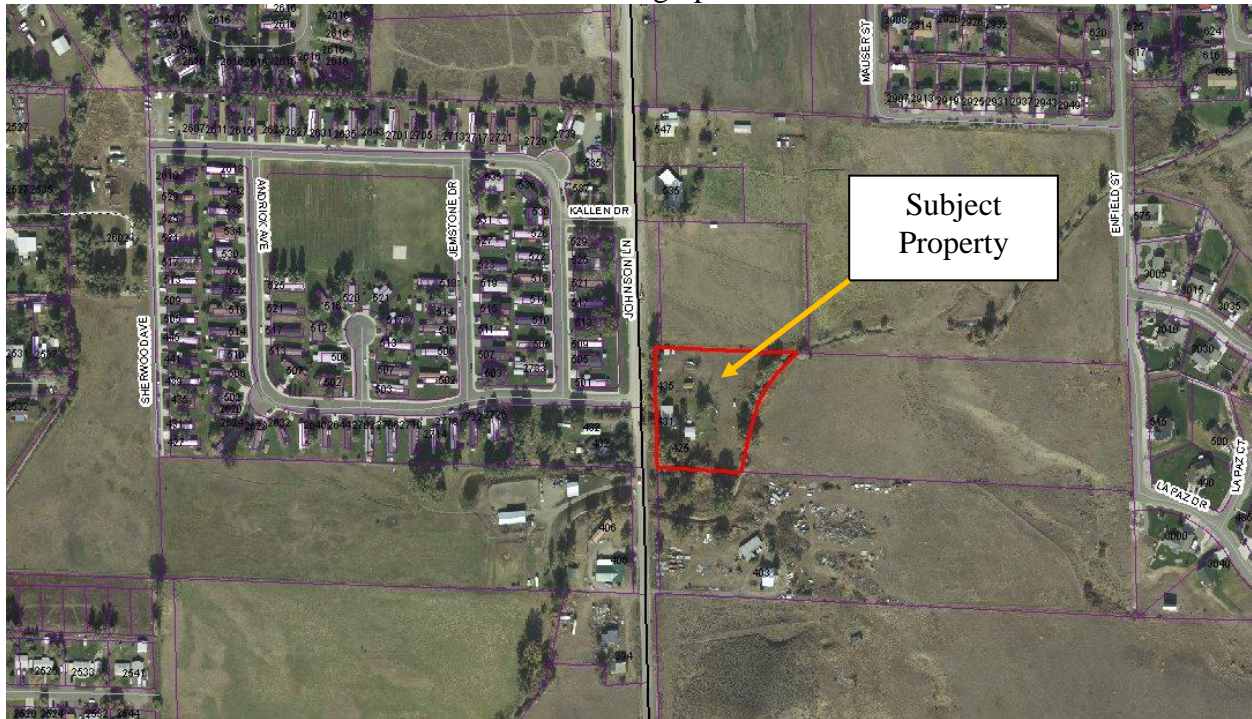
Bill Stewart suggested we talk to Dan Marish who is associated with the townhouses out on Frontier Street. Bill said that Dan could be helpful and sometimes has open houses so we could go and look at some floor plans perhaps.

Tiffany and Melinda informed those in attendance that there will be two more formal meetings, the second one having the county commissioners in attendance and they will be notified with one letter having both dates on it by mail.

The meeting adjourned around 8:45. After everyone's questions were answered, we simply became more acquainted and talked about the growth Lockwood has seen and the changes as most of them have lived here since childhood.



**Attachment C – Zone Change #638**  
**Site Photographs**



**Subject Property**



**Attachment C – Zone Change #638, continued**  
**Site Photographs**



View south along Johnson Lane



View west across Johnson Lane to Emerald View Park

**Attachment C – Zone Change #638, continued**  
Site Photographs



View north and west across Johnson Lane



View north along Johnson Lane



**Attachment D – Zone Change #638**  
Lockwood Water and Sewer Letter



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1644 Old Hardin Road

Billings, Montana 59101

[www.lockwoodwater.com](http://www.lockwoodwater.com)

(406) 259-4120

Fax (406) 259-1113

Nicole Cromwell  
Zoning Coordinator  
510 N. Broadway  
4<sup>th</sup> Floor Parmly Library  
Billings, Mt. 59101

RE: County Zone Change #638 – 425 Johnson Lane R-96 to R-50

Dear Nicole,

The following are our comments in regards to the above referenced Zone Change Request:

1. There is an existing 16" water main located on the East side of Johnson Lane. Water service is available to the property. The water service to the property will need to be sized by a Montana Registered Engineer to ensure that adequate quantities and flow will be available to serve the 17 proposed units.
2. An agreement between LWSD and the Developer/Owner is required for the Design and Installation of the Water and Sewer Improvements, along with the required State and local agency approvals for the Water and Sewer Improvements.
3. The Phase I Sewer Subdistrict constructed a 12" Sanitary Sewer main on the East Side of Johnson Lane which is adjacent to the property. However, the property did not participate in the construction costs of the sewer system and will have to pay an equivalent construction impact fee in order to hookup to the sanitary sewer system (see attached sheet G-2). At present there is one service installed to the property to serve the existing duplex located on the property, as shown on the attached construction plan sheet C-13. This service was only installed in order to keep the owner from having to tear up the paving in Johnson Lane in the future. A new single residential service may not be adequate to handle the additional 17 units and an additional main may be required for the new units. The new sewer service or main to serve the units will need to be sized by a Montana Registered Engineer to ensure adequate service to handle the flows from the 17 proposed units.





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1644 Old Hardin Road

Billings, Montana 59101

[www.lockwoodwater.com](http://www.lockwoodwater.com)

(406) 259-4120

Fax (406) 259-1113

4. MDT right-of-way permitting for construction may be involved depending on how the property sits in relation to where their right-of-way ends south of the intersection of Old Hardin Road and Johnson Lane.

If any additional information is needed by either the Developer/Owner or you, we will be available to meet with you. A copy of our Rules and Regulations with our rates and fees are attached for reference.

A handwritten signature in blue ink that reads "Woody Woods".

Woody Woods, District Manager  
Lockwood Water & Sewer District